IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

I.T.A. No. 183 of 2007

Date of Decision: May 14, 2007

The Commissioner of Income Tax-III, Ludhiana

…Appellant

Versus

M/s Shivam Construction Co., Ludhiana

…Respondent

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. S.K. Garg Narwana, Advocate,
for the appellant-revenue.

JUDGMENT

M. M. KUMAR, J.

This order shall dispose of I.T.A. Nos. 183 and 184 of 2007, as two different assessment orders in respect of the same assessee are the subject matter of challenge. The revenue has filed the appeals under Section 260A of the Income Tax Act, 1961, against the common order dated 30.8.2006, passed by the Income Tax Appellate Tribunal, Chandigarh Bench 'A', Chandigarh, in I.T.A. Nos. 384/Chandi/2004 and 386/Chandi/2004, in respect of assessment year 2000-2001 and I.T.A. Nos. 383/Chandi/2004 and 385/Chandi/2004, in respect of assessment year 1999-2000. The revenue has claimed

the following questions of law:-

i) Is the ITAT legally justified in holding that in the case of contractors, profit can be worked on estimate basis at 10% of the gross receipts, when the assessee claims to be maintaining proper books of account which have been duly audited by a CA, but does not produce complete books for verification before the AO?

ii) The Income Tax Act clearly provides for applicability of deeming provisions of section 44AD in case of contractor with a total turnover not exceeding Rs. 40 Lakhs can the ITAT travel beyond the provisions of I.T. Act and make the provisions applicable even to those cases which are not covered in the statutory limit of Rs. 40 Lakh, as specifically provided for in the Act?

It remains undisputed that I.T.R. No. 167 of 2007, in respect of assessment year 2001-2002, in the case of the same assessee, came up for consideration on 7.5.2007, on the same questions of fact and law. The appeal was dismissed. We adopt the same reasoning to dismiss these appeals as has been adopted in the order dated 7.5.2007, rendered in I.T.A. No. 167 of 2007 (The Commissioner of Income Tax III, Ludhiana v. M/s Shivam Construction Co.).

A photocopy of this order be placed in the file of the connected case.

(M.M. KUMAR)
JUDGE

(RAJESH BINDAL)
JUDGE

May 14, 2007
Pkapoor